

DISTRICT COURT OF GUAM
Hagatna, Guam

ORAL INTERVIEW

Of

Mr. Roger P. Crouthamel
Attorney at Law

Date: Tuesday, May 2, 2006, 10:05 a.m. -12:15 p.m.

Location: Chief Judge's Chambers, 4th Floor,
District Court of Guam

(Interviewee is Mr. Roger P. Crouthamel, Attorney at Law. Interviewer is Lolita Toves, Judicial Assistant. Mrs. Wanda Miles, Official Court Reporter, assisted by recording the following proceedings stenographically.)

MS. TOVES: The purpose of this interview is to preserve court history, what you know about the history of the District Court of Guam, and more particularly of Judge Duenas because you worked with him, and also of yourself, we want to know more about yourself.

And I just want to preface this with the date and time. Today is May 2nd, 2006, and it's about 10:05 in the morning, I believe.

So for starters, could you tell us about yourself, your name first.

MR. CROUTHAMEL: Well, my name is Roger Powell Crouthamel. And I was lucky enough to come out to Saipan in the Trust Territory days as a third-year law student with UCLA, and I came out for a quarter away program and worked in the Attorney General's Office of the Trust Territory of the Pacific Islands. And that was January 1973. And I just liked the idea of being 6,000 miles away from Los Angeles, and it turned out to be a really wonderful experience. And when I was there, I probably came over to Guam two different weekends because I had an old friend from Riverside, California; in fact, her name was Joy Russell, and she'd married a lawyer from the Bay Area, who had a job out here with the Barrett Ferenz law firm, and they were living on Guam. And Geoff Russell said: "Roger, Guam is really doing things. A tourist business is developing; they're building hotels. You ought to look at clerking out here. And by the way, I set you up with an interview with the federal judge, Cristobal Duenas." And I said: "Geoff, I really don't think I want a career out in the Pacific. I like being here, it's been a really good experience, I'm going to go back and graduate, but I don't really think I'm looking for a job out here." He said: "Well, Roger, you have to go see Judge Duenas; it will be an affront to me if you don't show up, because I've scheduled this appointment." And I said: "Okay. I mean, I surely would like to meet him, it will be a nice experience." So I went to the court, you know, in between sessions and sat down and met Judge Duenas. In those days, I always carried a resume with me. I was a third-year law student and I always had a resume handy. And so I showed him my resume, which was probably two pages and so forth, and we talked, and we talked about people in the Trust Territory and, you know, that I worked with and that he knew.

And after about 20 minutes he said: "Well, I'd really like you to be my law clerk, you can have the job.

TOVES: You got it easy.

CROUTHAMEL: Absolutely. And I looked at him and I said: "Judge, you can't offer me this job. You've only talked to me for 20 minutes, you don't know me." And he said: "Yeah, but you're here, I've seen you, I've talked to you." And I said: "Thank you very much. Could I have a week or two to think about this and figure how to try and cope with this?" And he said yes. I said, "Number one, I have to go back to Los Angeles do my third quarter of law school and graduate."

TOVES: Oh, you hadn't finished yet.

CROUTHAMEL: No, huh-uh. And take the California bar. And, you know, this was like March of '73, and so I said, it will be August or so of '73 before I can get back here. He said, "I understand."

He had a lawyer working for him as a temporary law clerk named Linda James, I believe, and she was married to an Air Force officer stationed at Andersen Air Force Base, and she had a law degree from the University of Alabama. She was a very nice person, and I think that she and the judge got along real well. She was very helpful, and she said, "I'm the only person he's ever had as a law clerk, so I've had to learn how to do things, he's had to learn how to refer things to a law clerk." And she said, "But you'd really like this job if you take it." I remember her saying that.

TOVES: You said you were still going to law school; which law school again?

CROUTHAMEL: UCLA.

TOVES: And you talked about a resume; do you have a resume you could provide us later?

CROUTHAMEL: I think I have a biography of my long lengthy life.

TOVES: Okay. You didn't go into your background, yourself, where you're originally from, and your educational background. Could you do that?

CROUTHAMEL: Well, I was born and raised in Riverside, California, lived in the same house, same school system all my life. And then I went to college at UC Riverside for my first two years, and then I went to college at UC Santa Barbara for my second two years and

graduated from Santa Barbara a little bit early so I could go in the National Guard, because my lottery number was No. 49.

TOVES: Lucky number.

CROUTHAMEL: Yeah. I could get out of the National Guard and go to law school. I'd always wanted to go to law school. I think I made that decision when I was ten years old, that I wanted to be a lawyer, so I was very interested in being a lawyer.

TOVES: Who had influenced you?

CROUTHAMEL: I think it was my father. He was a mechanical engineer, worked in the railroad industry. He said, "Be a lawyer."

TOVES: And when you did talk with Judge Duenas for this law clerk position, did you take it right away or did you go back to law school?

CROUTHAMEL: I got on a plane to go back to UCLA. I think my last days in Micronesia were, you know, was sitting down with Judge Duenas and saying I'm really serious about the job, can I go back to California and think about it for a couple of weeks. So I went back. I had a spring vacation, so I spent a week in Japan and a couple of days in Anchorage, Alaska, got back to UCLA. I'd been in Los Angeles for four days, okay, I'm driving from my apartment to campus right through Century City, L.A., and I said "I don't want to be here. Okay, I want to be out in Micronesia."

TOVES: You missed it?

CROUTHAMEL: I missed it. I said, "I don't want to be in these high-rise buildings, I want to be back in a place where it's friendly, it's small, but it's happening, there's a lot of stuff going on on Guam, you know, it's not dead (chuckling)." And I said, "I'm taking the job." Now part of the reason, a lot of that reason was, I carefully looked at the scope and the breadth of what the District Court of Guam did in those days, because it was the court of general jurisdiction for the Territory of Guam, and all of your civil cases over \$5,000 were filed in the District Court of Guam; all of your felony cases that were filed by the Attorney General of Guam were filed here; the bankruptcy cases that were federal, of course, admiralty, all the activity was in this one-judge court. And it was a lot of exposure. And I'd been told what a wonderful person Judge Duenas was, that he was a graduate of the University of Michigan Law School, that he had a good legal mind and was a very smart scholar, and a very fair and good man. And all of

that was true. And I thought, how could I turn down a job with a federal judge that had such a good reputation, and such good character, and had this breadth of jurisdiction that would give me more to look at experience-wise?

TOVES: Experience waiting to be gained.

CROUTHAMEL: Yeah. I said, that's a fun place to be, it's a court that gives me a lot of experience and exposure to various facets of the law, and a wonderful jurist to work with.

TOVES: That short period of time that you were here, do you remember what was happening in Guam, you know, in the social picture, and what brought these matters to court.

CROUTHAMEL: You had a lot of construction going on, you had a lot of land deals that were going on, a lot of land speculation, hotels were opening, you know, one every four or five months.

TOVES: That was what time period now?

CROUTHAMEL: This was in '73 when I was interviewing and when I arrived. And the hotels started opening in 1971 into 1974, that was all that growth. And there was a lot of investment from Japan, Taiwan, Hong Kong, and a lot of that investment ended up in legal cases (chuckling).

TOVES: Was banking kind of growing also here in Guam?

CROUTHAMEL: Yes, Citibank had opened up, Chase Manhattan Bank had opened, Bank of Tokyo- California, which was Union Bank eventually, had opened up, both of the Hawaiian banks had opened, Bank of Guam had just been started. So Guam was a vibrant place where it seemed like everything was happening.

TOVES: So you did take the law clerk position, in fact?

CROUTHAMEL: Uh-huh, I did. I took it for, it was a two-year position, and the Administrative Office of the U. S. Courts was very helpful in giving me a plane ticket to get here, and a small moving allowance, on condition I stay for two years. I was obligated, which was okay with me.

TOVES: So what happened with your law school, did you continue being on the job, but you continued with law school?

CROUTHAMEL: Well, no. No. Judge Duenas had, at least Linda was here for the period of several more months, so he didn't need me immediately. Okay. So it gave me the time

to finish my third quarter of law school. I graduated in June of '73, took the California bar in July, of '73, and arrived on Guam I think it was probably September 9th, 1973, in the middle of a huge storm. Actually, there was a plane crash the night I landed. There was a Convair 880, it was a freighter, and it crashed in NAS and it took out the radar facility at NAS, and the airport was closed for about 12 or 15 hours. I think I arrived like at 7:30 at night and I showed up next day at the courthouse at 8:00 o'clock the next morning to go to work.

TOVES: But before you took the position, did you look into the history of the District Court, the creation of it, found out information about it?

CROUTHAMEL: Yeah, I did. I mean, I looked at the Organic Act so I could understand what the structure of the Government of Guam was and how the court fit into the governmental structure that was set forth in the Organic Act. So I had a fairly good understanding, at least on paper, of how the government worked on Guam. And having been in Saipan for two-and-a-half months it gave me, you know, familiarity with how things worked on Guam.

TOVES: And you talked about jurisdiction; can you just go ahead and give us that again.

CROUTHAMEL: Oh. Well, the District Court had appellate jurisdiction over the Island Court, so we were doing probably 15 appeals a year, which is unusual for a trial court to do any appeals, or to have any appellate jurisdiction. We had all felony cases in the territory, plus federal jurisdiction, so you had the U. S. Attorney and the Attorney General of Guam filing criminal cases in the court. There was a lot of criminal work, homicides, drug cases, you had all the civil cases involving any of the land deals that went sour, you know, contract disputes, construction matters, and admiralty matters; any vessels that were being arrested, that was a major activity of the court. And then we had a few bankruptcies, not very many in those days. Of course Guam was on a very big upswing in the early 70's economically. So the variety of work was substantial.

TOVES: And the physical location when you first started was where?

CROUTHAMEL: Was at O'Brien Drive and Route 4. And I thought it was a nice building.

TOVES: Is that the one --

CROUTHAMEL: Right there on the corner, right across cross from Shirley's Restaurant. Because it was built in the late sixties, and it was built by the Government of Guam, on

condition that the federal government would lease the second floor to be used for the District Court. Downstairs were the Island Court judges, so you had all of the judges on Guam in that one building. You had your three Island Court judges downstairs, and you had Judge Duenas and the District Court upstairs sharing the same building.

TOVES: And you talked about the state of the District Court. How did you find it when you came in to the District Court employee-wise, caseload?

CROUTHAMEL: Caseload was huge, and there were trials almost every week, civil or criminal. Motion day was always Friday, but frequently you'd end up going into session Friday afternoon, you know, and having trials, unless you had pretrial conferences. And you had a lot of pretrial conferences in those days. So usually Fridays were reserved for motions in the morning. A motion calendar would typically be 18 to 20 cases. And none of these were matters which were necessarily passed over. They all had to be argued and dealt with. Some of them were procedural and didn't take very long. But motions would start, I think, about 8:30 and would last probably until 11:00.

TOVES: Was it set on a particular day of the week?

CROUTHAMEL: Friday morning.

TOVES: For civil motions?

CROUTHAMEL: And criminal.

TOVES: Were there a lot of jury trials in those days?

CROUTHAMEL: Oh, there were a lot of jury trials, both civil and criminal.

TOVES: Was there ever a problem with jury, let's say a defendant was brought into court and was tried without a jury, was there an issue, or is that a local court matter where it was challenged?

CROUTHAMEL: No, I mean everybody had a right to a jury trial in the Federal Court. And even if it were a local case, because local felonies were being tried there, parties were entitled to a jury trial. And generally -- I don't recall a defendant opting out and saying, "I want a trial to court, I don't want a jury." I think everybody based upon legal counsel always opted for a jury trial.

TOVES: Did the District Court have a jury plan back then?

CROUTHAMEL: Yes, I think it did.

TOVES: And did you witness some of the jurors, were they receptive to the idea of being a juror?

CROUTHAMEL: I think most jurors were.

TOVES: It was a new experience for them.

CROUTHAMEL: Yeah, I think most jurors were fairly receptive. I think they felt like it was a duty they had to do. Sometimes, there were instances where female jurors had some problems because their husbands didn't want them to be on a jury, or that they didn't like the idea of the jurors going out to lunch and deliberate because there were other men on the jury (chuckling).

TOVES: The typical local men.

CROUTHAMEL: Maybe back in those days.

TOVES: People change, so has the court, right?

CROUTHAMEL: Absolutely.

TOVES: So early years of District Court were simple, but yet --

CROUTHAMEL: It was a lot more simple then than it is now, and yet it wasn't sleepy. It was a very active, busy, busy place. And, you know, if you've got 18 motions on the calendar and a trial on Monday and Tuesday and another trial on Wednesday and Thursday, Judge Duenas never took any time off. Well, he took time off only to go to the Ninth Circuit Judicial Conference every summer, and then he would take, like, three weeks and that would be his vacation for the year. There would be a visiting judge that would be sent from the Ninth Circuit to take his place on Guam during that time. That was by and large the only time that he would leave island. And he would work Monday through Friday and he would be in there most all day Saturday. Luckily he lived close to the court.

TOVES: He worked Saturdays too?

CROUTHAMEL: Judge Duenas?

TOVES: He didn't do that in the last few years of his term.

CROUTHAMEL: Yeah. But when you were working for him, he didn't have nearly the caseload that he had in the early 1970s. I remember the old timers, the lawyers that had been here for many years, like Howard Trapp saying, "Oh, Judge Shriver would never have stayed in this job if he had to do the caseload that Judge Duenas had to do, he wasn't going to work that

hard." And Judge Duenas never complained about it, he just, he worked hard and I think I worked hard.

TOVES: Do you know how Judge Duenas was nominated to be District Court judge?

CROUTHAMEL: No. Of course, he was nominated I think in 1969, and there was a Republican administration in Washington, D.C. He wasn't a member of a political party. In fact, he was an Island Court judge, and had been an Island Court judge for approximately eight years, and so, in that capacity I think that he was noticed by the forces on Guam as being a jurist who had a good deal of experience and a good education. It was obviously during the Richard Nixon administration that he was nominated and confirmed.

TOVES: You didn't hear of any scuttlebutt about his appointment or any problems about his appointment?

CROUTHAMEL: No, not at all. There were things that were said in the island in those days, because Carlos Camacho was the first elected governor of Guam, the Bishop of Guam, and it wasn't Archbishop then, it was Bishop, was Felixberto Flores, and of course the Bishop of Guam is a very important force and leader in the community. And people would say, "Oh, boy, this is a real controlling clique here," because Carlos Garcia Camacho, Cristobal Camacho Duenas and Felixberto Flores were all first cousins. They were contemporaries, they were about the same age, I think they went off to college together after World War II. I know that Judge Duenas went to Grand Rapids, Michigan and Carlos Camacho went to the midwest too, I'm quite sure. And I said, well, so what. I was in that courthouse six days a week; I never ever saw those people ever talk to each other.

TOVES: They didn't come around to visit?

CROUTHAMEL: Oh, absolutely not. I mean, it was like they structured their positions that you're the governor, I'm the judge, and we're not supposed to know each other.

TOVES: They handled their business strictly on their own?

CROUTHAMEL: Oh, I think they respected their positions. Yes.

TOVES: Okay. You worked with Judge Duenas for just two years, you said?

CROUTHAMEL: Well, my contract was for two years, but I ended up re-upping for a third year, okay, and staying because I wasn't ready to leave Guam. I wanted to move, I thought I wanted to move back to the mainland but I wasn't quite ready to give it up. And so I asked

judge if I could stay on for another year, and he said, "That's fine, you know, you're welcome, I appreciate it." It was nice for me. Then at the end of that third year I felt like I'd like to stay for another six months, and that was fine with him, so I did.

And then I was moving back to the states, I think I had given my deadline that I'm going to go back like April 1977, and then something happened. I was approached by the Carlsmith law firm in Honolulu, which is an old Hawaiian law firm, and they approached me and said they wanted to open up a branch office on Guam, would I be willing to work. And I said, "Well, I'm moving back to the mainland." And they said, "Oh, okay, that's fine, your direction is set." And I said, "Well, tell me more," and Don Williams sat down with me and gave me a plan of what they wanted to do, and I said, "I'm interested."

TOVES: So it worked in place, that happened towards the end of your term with Judge Duenas.

CROUTHAMEL: Right.

TOVES: So after having worked with him -- Actually I wanted to go into your duties first, what you did with Judge Duenas as a law clerk.

CROUTHAMEL: What I did, a lot of what I did was reading all of the pleadings that would come in, reading all of the memorandums of points and authorities, absorbing those and then writing bench memos to him. I did a lot of work in writing and helping draft decisions on motions or trial decisions. Sometimes the judge would divide things up. The judge would work on one trial decision, and I'd work on another trial decision. And these things would be under advisement, sometimes they'd be under advisement for too long, but there were trials going on all the time, and we both worked on drafting decisions. He probably did as much or more than I did.

TOVES: You were just one law clerk then.

CROUTHAMEL: I was just one law clerk.

TOVES: For all the work?

CROUTHAMEL: Right.

TOVES: And then what made it difficult also probably was the technology, right?

CROUTHAMEL: We didn't have computers, we had IBM typewriters.

TOVES: And you typed yourself.

CROUTHAMEL: I typed myself, and I wasn't a very good typist. The judge had his secretary do all of his typing, he'd write everything out in long hand. She, Rosario Paulino might have been able to read his shorthand, I'm not sure, but he took all of his bench notes in shorthand, and then he would use those long yellow pads with all his notes on it, go through them and then he'd make his decisions. He did a lot of research. He and I were both in the law library a lot.

TOVES: With the development of technology, is it a requirement now for most lawyers to know how to type?

CROUTHAMEL: Oh, I think so.

TOVES: Because I've observed that with the new law clerks that come in, they've done most of their typing.

CROUTHAMEL: They need to know how to type and do all their own word processing.

TOVES: And work has moved faster?

CROUTHAMEL: It should (chuckling).

TOVES: So, having worked for Judge Duenas, for three years, how would you rate Judge Duenas as a judge?

CROUTHAMEL: Just a wonderful, wonderful jurist who's got a great sense of government, great sense of the court system, a great sense of American history and Guam history. The man is very, very fair and impartial. Judge Duenas himself is a very devout man, and his religion is very important to him personally, but it never ever comes into the courtroom. It doesn't matter who is before him, what ethnic group they're from, where they came from, he treated everybody equally, in my opinion. And every time that Judge Duenas ever sentenced anybody, he looked at them, read off the sentence, was very matter of fact about it, he never looked at the courtroom, he never looked at the reporters, he never did anything with a mind of "Well, what is the public going to think of this?" In my opinion, he did what he felt the law required and his duty was.

TOVES: Okay. You were just one staff member there; there were others.

CROUTHAMEL: When I arrived, the court consisted of the chambers staff. Rosario Paulino was the secretary and Joe Borja was his bailiff. Joe and he were contemporaries, they were both the same age. Joe was retired Navy, came back to Guam and went to work as Judge

Duenas's bailiff. There was no court reporter. The previous court reporter that had been there for many years, John Barnes. He had retired recently, so there were visiting court reporters, but then about two months after I got there, Edward Seymour, who was a federal court reporter in Boise, Idaho, was transferred to Guam at his request and he came out and served as Judge Duenas's reporter for four years.

In the clerk's office, the clerk of court was Edward L. G. Aguon, who had been the clerk of the court since 1962, and so he was the clerk of the District Court under Judge Shriver, and so he was in place before Judge Duenas became the District Court judge in 1969. Galo Lujan Perez, was the deputy or chief deputy of the District Court; and he had been a clerk in the Island Court of Guam when Judge Duenas was an Island Court judge, and when Judge Duenas took the job as federal judge, Galo Perez moved up to the clerk's office. And there was also Soledad Santos, who had been in the clerk's office I think since 1954.

TOVES: That long?

CROUTHAMEL: That long, I believe. But we always called her "Da." She did a variety of things, which, including immigration and naturalization which think is still a big part of the District Court as far as I know.

TOVES: That's right, it is.

CROUTHAMEL: We had big naturalizations every quarter on Guam. The court staff had to prepare all the certificates of naturalization and Da did that, but she also did docket work. Rosita San Nicolas was the newest person in the court, she was even younger than I was. There were these four people that were in the clerk's office. Galo would be the courtroom clerk, or Rosita would be the courtroom clerk, they would alternate.

TOVES: Did you all work together well? Were there frustrations that the judge received from them, or –

CROUTHAMEL: Oh, yeah. The judge didn't get perturbed very easily. He didn't show frustration very much.

TOVES: He's just that type of person, isn't he?

CROUTHAMEL: Right. Right. Very easy to be with. I think one of the best things that I enjoyed about it was the ability of Judge Duenas to sit down with me at the end of the day after the trials were over, and sit down and talk about where the cases were at, how we thought about

things, what we were supposed to do, and tell me what to do, what to work on, and then we'd talk about the history of Guam. And I would sit there and I would absorb things from him that he would tell me.

TOVES: He was educating you also.

CROUTHAMEL: Educating me, not just about jurisprudence, but how the Legislature is structured and how the Organic Act was formed. He talked to me about things like, Gregorio Cruz Perez. He was a blacksmith. He owned land all over the island because people would give him land in exchange for his services. He died in the influenza epidemic of 1918, and he had land all over the place, and the estate still isn't probated. Well, to this day the estate still hasn't closed probate. But he would explain to me some of the history of the land holdings and the development of Guam, and colorful stories from before the war.

TOVES: Sounds like a stress reliever from work.

CROUTHAMEL: It was for me, and maybe it was for him.

TOVES: Yeah, for the judge.

CROUTHAMEL: It was, I mean the ability for he and I to have dialogue I thought was just amazing.

TOVES: But aside from court work, did he also have administrative responsibilities working with the clerk's office, clerk of court?

CROUTHAMEL: Yes.

TOVES: And Ninth Circuit?

CROUTHAMEL: Well, he had a good relationship with the chief judge of the Ninth Circuit, who was at the time, or most of time that I was there, in fact all the time, was Richard Chambers, who was from Tucson, Arizona. Judge Duenas and he seemed to have a very cordial and good relationship. Judge Duenas took an active role in what happened in the clerk's office; he was watching the docket, how it was maintained, he was in and out. It was a very small chambers, and so there was an awful lot of going back and forth between the clerk's office and the chambers.

TOVES: Do you know if he had any significant accomplishments during his term as judge of the District Court?

CROUTHAMEL: Well, there was an awful lot of evolution. In 1974 the Superior Court was formed by the Court Reorganization Act, and that created a court of general jurisdiction for the territory, and elevated the Island Court from being a misdemeanor court to being a felony court. And it also created the Supreme Court of Guam to hear appeals from the Superior Court. However, the whole Court Reorganization Act got challenged. I think Howard Trapp was representing the party that challenged the legality of the Court Reorganization Act.

TOVES: That was 1974?

CROUTHAMEL: 1974 or 1975. The act was passed in '74 and it was effective in '74. Not too long after it was effective there was a challenge, and the challenge came in the form of a writ of mandate which, I think, there was an appeal, and there was a decision in Superior Court that was appealed to the new Supreme Court of Guam, and I think that Howard Trapp took a writ of mandate or a writ of prohibition to the District Court to restrain the Supreme Court of Guam from hearing the appeal on the basis the Supreme Court was not legally constituted. He contended that the Legislature of Guam didn't have the authority to create a Supreme Court without Congress's permission, because doing so was terminating the right of appeal to the Ninth Circuit and to the Supreme Court of the United States. And so Judge Duenas heard that petition. The significance of the Act was surprising to both himself and myself. He came down with a decision which basically held that the Legislature could create a Superior Court and strip the District Court of its jurisdiction over felony cases as well as civil cases that are based on territorial law, but that it couldn't strip the District Court of its appellate jurisdiction. That decision was finally upheld by the Ninth Circuit in an en banc decision, what was called Agana Bay Development versus Dillingham. That was a very significant matter.

TOVES: So the District Court still had appellate jurisdiction even after that.

CROUTHAMEL: After that.

TOVES: And it continued on to --

CROUTHAMEL: Oh, probably another 15 years or more, until Congress amended the Organic Act to provide that the Government of Guam could constitute a Supreme Court, and that the parties would have appeal from the Supreme Court of Guam to the Ninth Circuit for a period of years and then it would eventually have appeals directly to the Supreme Court of the United States, which is what the status is now. But that evolved over a period of years.

TOVES: So, as law clerk then, when there were appellate sessions, what were your duties?

CROUTHAMEL: Well, my duties were to write a brief that got circulated to the three judges that were on the appellate division.

TOVES: Did you do all the bench memos for them?

CROUTHAMEL: I think I did.

TOVES: Or did their law clerks also?

CROUTHAMEL: They wouldn't bring their law clerks with them in those days.

TOVES: So you had to do all that prep?

CROUTHAMEL: As I recall. I probably didn't do lengthy memos then (chuckling). But then after arguments, I would sit down with the judges and they would all divide up the duties of who's going to write the decisions, because each appellate session might hear seven to nine cases. These cases would be, in the later years when I was the law clerk, more significant because parties were appealing a case from the Superior Court, which may be a major felony or a major civil case to the Appellate Division of the District Court. It was no longer a misdemeanor court from what the District Court was hearing appeals. So the appellate work got to be a little bit more substantive than it had been. I enjoyed working with the various Ninth Circuit judges that would be sent out here. We usually had two or three appellate sessions a year, and I got to enjoy working with different judges. And Judge Duenas was always on the panel.

TOVES: Again gaining experience or knowledge from their experience?

CROUTHAMEL: Yes.

TOVES: Or their style.

CROUTHAMEL: Absolutely. And I think in the summer time I would generally take a vacation when Judge Duenas took a vacation, and the visiting judge who would come out would usually bring their court reporter and their law clerk, so I was relieved.

TOVES: When you were doing these bench memos or memo orders or orders, did Judge Duenas give you drafting tips as to how you should do it, or did you learn all that yourself?

CROUTHAMEL: Well, I probably was prepared to do any of that out of law school, but he would always point me in directions as to what I should look at. He wasn't very critical of my work, but he certainly refined whatever product I produced.

TOVES: Back to the judge again, about the judge's conduct. Did Judge Duenas have a good demeanor on the bench? I think you touched upon that, he was fair --

CROUTHAMEL: There were people in the bar that would say the only problem with Judge Duenas is he's too nice. I don't think that was true. He didn't have a difficult time making a decision, that was for sure. You couldn't always read him from the bench about what his decision would be, because he wouldn't ask questions in a way that he would tip his hand. Maybe if someone was sloppy he might point that out, but he wouldn't point it out in a way that was overbearing.

TOVES: But he was easy to talk to, right? I mean anybody could go up to him and talk to him.

CROUTHAMEL: Well, not really, in the respect that he basically kept his --

TOVES: Well, he had his position.

CROUTHAMEL: He kept his door closed, okay, he didn't want -- he would talk to lawyers in a pretrial conference when everybody was present. He was very careful about not talking to --

TOVES: The other parties or the other side without the other party being present.

CROUTHAMEL: Right. Right, very careful about that. And part of the job of the law clerk was to shield him from that too, because the lawyers from various parties would call up the law clerk to calendar this or that; and the law clerk really had to be careful not to talk to too many of the lawyers. Yet, you wanted things to run smoothly from a calendaring standpoint.

TOVES: It was also the secretary's duty to keep the public's requests and questions at a minimum or --

CROUTHAMEL: I would say so.

TOVES: It doesn't go directly to the judge, they have to be screened.

CROUTHAMEL: They had to be screened. Yes.

TOVES: So was security tight during his time, was there a problem that he needed security, or to be watched over by the marshals?

CROUTHAMEL: There was no security.

TOVES: At that time?

CROUTHAMEL: At that time there was no security. I remember when we had an issue, and I don't think there was any incident or anything, but maybe an incident in a stateside court. There was a killing in San Rafael, California, I think it was about that time, and the U. S. Marshal thought that maybe we needed to have a talk over in District Court about beefing up security. And so I sat down within the U. S. Marshal and the deputy and we talked about what we needed to do about security, and the marshal said, "You know, we really need to have armed guards with guns in the courtroom, and we need to have real good training so that they're trained to be good marksmen so they shoot the bad people and not the good people." So I went back in to Judge Duenas's chambers and I said, "Judge, the U. S. Marshals office is raising some issues over security and he suggests that we need to have armed guards in the courtroom. And he is concerned that the good people not get shot and that the bad people not get shot." The judge looked at me and said, "I don't think we need security." (Chuckling.)

TOVES: So you didn't have a marshal standing outside of his door or anything like that?

CROUTHAMEL: Not in the three years that I was his law clerk at all. Well, yeah, there was a marshal standing outside his door, but it was me. Literally, I was right -- I mean, his door was right here and my desk was right here. The problem was that I might not be at my desk, I might be at the law library which was on the other side of the courtroom in the building, because I did have a table over there and I had all of the Federal Reporters and the California Reporters, and Pacific Reporters which I used.

TOVES: It was a small chambers then.

CROUTHAMEL: Oh, it was real small.

TOVES: But the courtroom was big?

CROUTHAMEL: The courtroom was a very nice courtroom.

TOVES: Probably as big as this one now.

CROUTHAMEL: I think so. The jury box was a little small, and we didn't have any technology, nothing like AV equipment and screens and cameras, none of that. But the acoustics were very good. It was a nice courtroom, for its day and age.

TOVES: And despite judge's high position, had he ever shown that he was too important to share his talents, his even gifts or whatever with others?

CROUTHAMEL: Well, he was a humble man, but he was a man that had the decorum of a judge; he wore the robe well. He respected the robe. And he distanced himself from the community. And I respected that – a judge had to be distanced from those who come before the courtroom.

TOVES: So would that mean that he didn't socialize much with the bar members?

CROUTHAMEL: No. No, he didn't. He would go to some bar functions, a special function, but he didn't socialize with the lawyers, he didn't socialize with the businessmen. His nature is to be a very close family person to his own immediate family. Being a judge in a small community you sometimes have to sequester yourself to be removed from conflicts, and he was very good at that. I remember one time the Bar Association celebrated the opening of the law library behind the courthouse. We didn't have a territorial law library until maybe the mid-1970s, and I remember I was over there for the reception to open the library, and Judge Duenas drove over, and he backed his car over a tree that was probably not much bigger than my thumb, and he came in to the library and he said, "Well, boy, I'm glad I backed over that tree on my way in, not on my way out, because somebody might have accused me of having a drink here." (Chuckling). It would be a rare occasion that he could enjoy having a Scotch on the rocks.

TOVES: How would you say he treated the weak attorneys in court? Were there ever weak attorneys in court?

CROUTHAMEL: Yes. I think he would instruct them to be better prepared next time and to get their act together. He would get the point across without badgering them. I think he was probably more concerned about attorneys that appeared to be less than forthcoming in how they presented things. He didn't like devious attorneys.

TOVES: Excuses? Attorneys that made a lot of excuses?

CROUTHAMEL: More than excuses. Attorneys that were not truthful, or that misled the court, or that misrepresented things.

TOVES: And you did mention a significant case, the Agana Bay Development.

CROUTHAMEL: Agana Bay Development.

TOVES: Was that during your time?

CROUTHAMEL: That was during my time. The judge also had an important decision -- it didn't affect the jurisprudence of Guam all that much, but it was a major civil case which

involved the ownership of Marianas Cable TV back in the early 70s. That was a civil case that went on for probably 20 years in the trial courts, the appellate courts, back down to the trial courts and so forth. It was a very major litigation involving a large and new business for Guam at the time. It was a major trial which was probably lasted two weeks or more.

TOVES: Did it change things on the island with these major cases? I mean, did it change the lives of people, change laws in Guam?

CROUTHAMEL: Certainly determining that the Court Reorganization Act was inorganic, changed the way the government directed itself for 15 years. As far as major decisions in civil cases, any decision is going to affect the lives of the people that are before that decision. It may be who owns a business or who owns the property, or where a boundary is. They can all be decisions that are important to the parties, but not necessarily breaking new paths in the history of Guam.

TOVES: When you were law clerk and doing research, did the judge ever find that your suggestions were wrong, and he told you to go back and research some more?

CROUTHAMEL: Yes, he certainly did on occasion; and sometimes he would say, "Your reasoning is okay but your decision isn't, it's still -- you've missed something." And he wouldn't always decide things the way I was going.

TOVES: Did he suggest to you to go read another case or go look --

CROUTHAMEL: Go look in this area, yes.

TOVES: And did you ever find that his suggestion was not on point?

CROUTHAMEL: Not very often (chuckling). He had very, very good legal perspective, very good instincts.

TOVES: But you would talk about your findings though?

CROUTHAMEL: Oh, we'd usually talk about, yeah, talk about how to approach something from the get-go, and so, in that respect, it kind of helped, though I didn't go off in the wrong direction necessarily.

TOVES: What did you think of his philosophy in life?

CROUTHAMEL: Well, that's a good question, because --

TOVES: Did he have a golden rule or something like that?

CROUTHAMEL: I just can't think of anybody who has a fairer way of looking at people and how he treats people. You know, I think his outlook was simply do his job and do it well. I think being a judge was his destiny. I think he was perfect at it. He tried to work as a-politically as anybody ever could in his position. He worked hard, got his decisions out, didn't worry about whether it was reversed or upheld on appeal; that was for the appellate court to decide.

TOVES: How did he treat a losing litigant, did he tell them, "Well, you had your day in court"?

CROUTHAMEL: I think his attitude was, well, the decision speaks for itself. You know, he didn't seem to agonize over --

TOVES: Or if there was a remark that he was wrong in his decision, how would he respond to that?

CROUTHAMEL: "Let the appellate court decide if I'm wrong or not."

TOVES: Yes, there's the appellate court.

CROUTHAMEL: The appellate court. "I'm not supposed to be the last voice on this."

TOVES: Would you say that Judge Duenas was a mentor to you or a teacher?

CROUTHAMEL: Oh, absolutely.

TOVES: Did you learn from him?

CROUTHAMEL: I learned an awful lot from Judge Duenas. Taught me how to treat people, how to approach, what a lawyer is supposed to be, what hand the judge is supposed to be, how a court is supposed to be structured, and on the other hand he taught me so much about the history of Guam. It was very helpful to me, especially being from the states and not having the history under my belt.

TOVES: Right.

CROUTHAMEL: He was great at explaining the business history and the government history of Guam even going back to Spanish times.

TOVES: You probably know more about Guam than I do.

CROUTHAMEL: I know how people are related in the Chamorro families, and much more than most people. And part of it is because I think I started out working with Judge

Duenas who'd say, oh, that's the brother of so and so, and that's the sister of so and so, and oh, yeah, they have five brothers and sisters. He knew who everybody was. And he was very --

TOVES: How would you value your working relationship with Judge Duenas?

CROUTHAMEL: Well, I've had two really good working relationships, and one was with Judge Duenas and the other was working with Don Williams at the Carlsmith firm. And I consider those to be equally valuable relationships that are irreplaceable. I mean I couldn't have had a better start.

TOVES: Would you recommend a clerkship position to say someone just off of law school?

CROUTHAMEL: Yes. I think graduating from law school, going to work in a busy court I think is as good as they can do. It doesn't have to be a federal court. I think it's better if it is, but I think that going to work in a busy state or territorial trial court situation is good.

TOVES: And what is the reason for that, is it just exposure to the life?

CROUTHAMEL: It's exposure to the procedure, it's exposure to seeing a lot of lawyers in action, it's exposure to saying those are the lawyers I want to be like, those are the lawyers I don't want to be like. It can be disillusioning if you go to work for a judge that you find either lacks character, lacks judgment, or lacks decorum.

TOVES: Would it help them to narrow down where their expertise is going to be, do you think?

CROUTHAMEL: Yes, I think it helps them decide on what area of law they want to concentrate on. It gives them the ability to, when they go into private practice, to be able to pick the right opportunity for them.

TOVES: And so from your clerkship position with Judge Duenas, were you able to do that for yourself; did you find your expertise?

CROUTHAMEL: Yes.

TOVES: And what is that, can you tell us?

CROUTHAMEL: Well, I wanted to work in a situation where I felt that the lawyers were fair to their clients, had a lot of personal integrity, and concentrated by and large on commercial work that kept people out of trouble, that kept things working smoothly, that kept things out of court. Basically I was able to look at why is it these parties end up in court, why

was there a misunderstanding, why didn't the deal work or why was it papered badly. I was able to look at a situation and say, I want to be one of the lawyers that makes things work smoothly. And so I found that foundation for me. I didn't want to be the lawyer who found the guy that fell down the stairs and take him into court get a big recovery for him; that's not what I wanted to do with legal work. There's nothing wrong with that, but --

TOVES: That's too easy.

Turning to your law practice now, how long have you been in practice now?

CROUTHAMEL: Well, I practiced with Carlsmith from 1977 to 1989. And then I stepped down from my partnership with the law firm and I became of counsel. I've been of counsel since 1989 in a very part-time position, because I've been more of a businessman, and real estate developer than a lawyer. It was not a matter of choice on my part, it was a matter of circumstance. I had married Leslie; her father was a businessman, and I said I'm not going to get involved with anything that he does, and that lasted two years (chuckling).

TOVES: And you had no choice after that.

CROUTHAMEL: That's right. That's about right. I mean, John Kerr got me involved in everything; and he was a great intellect and he had a great way of treating people too. I enjoyed immensely my relationship with my father-in-law, and enjoyed learning from him. I think he learned from me too, it was a two-way street; and so we worked well together. The unfortunate part of it was that he got really ill in his late fifties, and in fact died at age sixty of Shy-Drager syndrome and I had to take over his duties of operating businesses and partnerships that he owned. So I ended up taking a leave from the practice of law, but I've never completely left it.

TOVES: And you're happy though, right? That's what counts.

CROUTHAMEL: I like the balance. I really describe myself today as about a 20 to 25 percent lawyer. That's the amount of time I'm trying to devote to practicing law, which is more than it was five or six years, or even ten years ago. In part, it was because my wife and I had five elderly people to take care of on both sides of our family, and we spent the majority of basically ten years taking care of elderly people, as well as managing businesses. Now we have no elders to take care of, we only have a 16-year-old daughter to take care of.

TOVES: You do have a child. I was wondering about that.

CROUTHAMEL: You didn't know?

TOVES: No. You married Leslie when?

CROUTHAMEL: 1981.

TOVES: 1981.

CROUTHAMEL: Lauren was born in 1989, and this is -- that's not her best picture, that's not --

TOVES: Oh, my goodness. She's beautiful.

CROUTHAMEL: She's five-foot-ten, 130 pounds, and she's 16 years old and she's graduating from high school in two more years. This is a more recent picture, but that's not as good because --

TOVES: Proud daddy.

CROUTHAMEL: I like being part of a law firm. I like being a part of the legal community, but I like probably being a part of the business community even more. I don't want to lose my identity as a lawyer.

TOVES: So what you do with the law firm is more administrative counseling?

CROUTHAMEL: Yes, it's probably more than booking hours, okay? It's kind of like they need somebody with gray hair around, and historical recollection.

TOVES: You have a lot of that.

CROUTHAMEL: A lot of historical recollection, both legally and business-wise. And I really appreciate working with the younger group, although we've got Pat Mason over there who's even older than I am. Pat retired from the Attorney General's Office, and had a lot of respect for the way he ran the litigation division of the Attorney General's Office. But Rossi Tolentino, Don Calvo, Elyze McDonald, and Meredith Sayre are younger than I am.

TOVES: I saw your article in Guahan magazine about your firm.

CROUTHAMEL: Uh-huh. Well, it's a good group of people and they seem to like tolerating me, having me around.

TOVES: You're a good boss, you sound like a good boss.

CROUTHAMEL: I'm not a boss, okay. I'm the old guy with gray hair that can talk to everybody.

TOVES: Sound like a good person to work with though.

CROUTHAMEL: Well, thank you.

TOVES: Back to the court.

CROUTHAMEL: Sure.

TOVES: Do you remember any court humors of your time that's worth noting, putting down on record?

CROUTHAMEL: I can't remember who the parties were, but there was a dispute in a family, and I think it was in Yona, it had to do with a boundary dispute; it wasn't anything that involved a lot of property or valuable property, but, boy, were these people bitter. They were old Chamorros, at least one of the parties was. And all the testimony was: "The boundary's where that coconut tree was, I know where that coconut tree was. The coconut tree went down in Typhoon Karen, but I know exactly where it was, and I'm not going to rest in peace until my niece is kicked off of my property." And you're probably talking about ten feet of property, I don't know, it wasn't anything that was significant, but, boy, were these people bitter. Judge Duenas came down with a decision, and it was almost like you could tell that the party that was the most bitter was going to end up losing, okay, because they were just so unreasonable. The judge said, "No, this is where the boundary is." And one of the parties, who had to be way into their 70's or so, stood up in the courtroom and just started cussing at the judge in Chamorro. I don't understand what she was saying, but he did, and of course I never ever heard him speak Chamorro from the bench.

TOVES: He didn't at all?

CROUTHAMEL: He did to this lady, because he had to (chuckling) put her in her place. But she wasn't going to take it.

TOVES: Did the court reporter take that down?

CROUTHAMEL: Couldn't. Couldn't, because the court reporter didn't understand Chamorro.

TOVES: He was supposed to take the sound down.

CROUTHAMEL: Well, maybe he could.. This old lady was just the kind of person that, you know, if she had a husband, he'd probably wish he was dead rather than be married to her. She just seemed to be unreasonable.

TOVES: That concludes my coverage of Judge Duenas. If you want to add anything more that I've missed, any other things that you can think of about Judge Duenas.

CROUTHAMEL: I always tell a little story when he hired me. I told him he really couldn't offer me a job because he didn't know me. I think he offered me the job because he had 22 resumes and I was the only one that showed up for an interview and that's why I got the job. I know he had a lot of resumes from applicants who hadn't flown out to Guam for the interview. Well, I was out here anyway. In those days there weren't a lot of kids from Guam that were in law school. It was like maybe one every two years, so it wasn't like you had a lot of returning students from Guam that were finishing law school. So if you needed a law clerk, a judge would have hired from a pool of anonymous people from the states. Having somebody that he could see, and he knows that he has seen Guam was important to him. He was afraid that somebody could arrive on an airplane, get off the plane, and when he finds out that it rains too much, or the grocery store doesn't have five kinds of lettuce, and they're used to living in Beverly Hills or something --

TOVES: Yes, that was the problem back then.

CROUTHAMEL: I mean, that was a problem back then to him, you'd hire somebody that wasn't prepared for the frontier of Guam. He said, "You've been here and you've lived in Saipan for two months, you probably know what you're getting into." He may have been impressed that I didn't know anybody and was not related to anybody, and therefore couldn't have any conflicts. He never said that, so I don't know if that had any element in his thoughts or not. He was very strict about recusing himself. If there was anybody that was a party that was he was related to by a certain degree, he'd go through the degree list and recuse himself only if he had to, because he said, "I can't recuse myself every time I know somebody who is a party in this court or I'm going to be recusing myself all the time. It's too small of a community. So he was very deliberate about how he did that, but he was cognizant of the conflict situation.

TOVES: There's like a formula or something like that that is followed.

CROUTHAMEL: There's a formula. If you had parties that are related by three degrees or whatever, he would disqualify himself because that was the rule. He was also very deliberate about not talking to newspaper reporters.

TOVES: He just didn't, it was not a practice of his?

CROUTHAMEL: Right, he didn't. It was fine for the reporters to sit in the courtroom, they'll take their notes and write what was going on in cases, that's fine. In those days we didn't have cameras in the courts, I guess we still don't. But he never would talk to reporters.

TOVES: So you would think he followed all the codes of conduct for judges?

CROUTHAMEL: Yes. And I think partly he knew innately what it was.

TOVES: He knew it by heart.

CROUTHAMEL: Yes.

TOVES: He kept within the rules.

CROUTHAMEL: I remember one time where he, he didn't like to drive at night very much, and he wanted to go to a rosary down in Malojloj, and so I drove him down to Malojloj, and there were some people his age about, or a little older, and he had a very, very nice time visiting with them. And I thought, well, these are his relatives or good friends, and he said, "Oh, they're just nice people; I remember them from the end of the war, I haven't seen them since 1945." (Chuckling.) They lived in Malojloj all these years. It just shows how distant certain sections of the island can be.

TOVES: How would you say he treated his family, personal relationships; do you know much about his family?

CROUTHAMEL: Oh, yeah, I know all the kids, you know. I know them all by -- Therese, Chris, Zerlina, Joanna, Vincent, Ricky, and David is the youngest. There are seven. Therese has passed away.

TOVES: David, by the way, is going to perform May 13.

CROUTHAMEL: I heard he was going to be out here again.

TOVES: I think Hyatt, with the Guam orchestra.

CROUTHAMEL: This isn't a KGTF fundraiser, it's for something else?

TOVES: It's a fundraiser for the Guam Symphony.

CROUTHAMEL: We'll have to go. Rick is his son that's married to Maria Cenzone-Duenas. I've known the family. The kids would come after school sometimes, into the courthouse. They'd sit around very quietly and wait for a ride home.

TOVES: Wait for dad to get off work.

CROUTHAMEL: Wait for dad to get out of the courtroom once in a while. Usually they had their own system, they didn't depend upon dad. But they were all lovely, warm --

TOVES: Loving kids.

CROUTHAMEL: Just wonderful. And maybe you don't know it, but Leslie and I built a house three houses down from Judge Duenas and Juanita, we're neighbors. We're neighbors with the Duenases, the Schnables, the Davises, the Perezes, and the Sullivans.

TOVES: The Calvos too, because you have to pass them, right?

CROUTHAMEL: They're on the other side of the wall. They're on the high-priced territory. But it just turned out that way, it just was a stroke of luck that we got to build a house in the same neighborhood, even though we're not related to the Calvos and most of the other people aren't. Juanita, you know, is a first cousin to Jake Calvo, she's a Calvo. And the Schnables are Calvos. Perezes don't seem to be, but --

TOVES: Yes. They're different family clan.

CROUTHAMEL: Off the record.

(Break.)

TOVES: Back on the record. We've concluded talking about Judge Duenas. I just wanted to get information from you regarding the other judges of the District Court if you have any information on them, the first two judges. The first judge was Judge Paul D. Shriver, and the second judge was Eugene R. Gilmartin.

CROUTHAMEL: Well, I knew that Judge Shriver was of course the first judge, and he was appointed by the Truman administration, and served a term of eight or nine years; and then Gilmartin was appointed by the Eisenhower administration and was out here for probably less than a year, and I believe he died of a heart attack not long after he was on the bench. And by the time the federal government looked at replacing him, there was a Democratic president, John F. Kennedy, and back came Paul Shriver. I did get to meet Paul Shriver probably about 1975 or so, he served on a Ninth Circuit committee, he was a judge of senior status at that time, although he wasn't an active senior judge, but he had been selected by Judge Chambers to sit on a Ninth Circuit committee on Pacific Islands territories. One of judges on that committee was Anthony Kennedy who was a Ninth Circuit judge at the time, who then a few years later got elevated to the Supreme Court. He has given Guam a connection to the Supreme Court because I think

there's a special fondness on Judge Kennedy's part for his visits to Guam and his exposure to the Territory of Guam. And Justice Kennedy I think is a very respected jurist in his own right, with a very distinguished record and career. I don't believe Paul Shriver would be living anymore. I don't know when he passed away, I never really knew, but he'd be definitely over a hundred if he was still alive.

TOVES: I think he did pass away; I heard some years ago that he did pass away.

CROUTHAMEL: There were so many visiting judges, but not to the extent that we've had in recent years, okay, because we've had a lot more visiting judges during the vacancies between Judge Duenas and Judge Unpingco, between Judge Unpingco and his replacement.

TOVES: There's like a two-year lapse, right?

CROUTHAMEL: Right.

TOVES: And I think it's the same with this vacancy.

CROUTHAMEL: Judge Duenas stayed after 65, and kept working. He wanted to be relieved, he wanted someone to take his place, and they never came up with a replacement for him, I mean, the political forces that decide how judges are going to be selected. He finally turned 70 and said, "I quit, I give up." (Chuckling.) And something he told me the day of his retirement party, he said: "I give up, but I'm not worried." He said, "The court will run."

TOVES: By itself?

CROUTHAMEL: No. He said, "The court will run just fine, there'll be judges here. He said, "Everything will run fine because Mary is the Clerk." He said that.

MILES: A nice compliment.

TOVES: Yes.

CROUTHAMEL: I don't think he probably said that to very many people, but he felt -- and I don't think that was just a credit to Mary, I think it was a credit to the whole staff. He felt that there was a court structure here that didn't require him. And so he felt good about --

TOVES: Leaving us, leaving the court.

CROUTHAMEL: Right.

TOVES: He was waiting too long.

CROUTHAMEL: He'd waited longer than he wanted. He had a lot of things that he wanted to concentrate on. He had an older sister that was not in real good health, and I think the

Bishop may still have been living. The Bishop in later years became more dependent upon the Judge and Juanita, because he became ill and Bishop Flores was his first cousin. He had a lot of extended family duties that I think he wanted to concentrate on.

TOVES: And you just reminded me of something, not of extended family duties, but something with the court. The issue about Article III and Article I judge court, or something like that. Do you know what his feelings were for that?

CROUTHAMEL: Well, I think he always hoped that Guam would attain a status where the Federal Court had the same legal status that other District Courts have in the rest of the country. Just because we're a territory and we're governed as a territory, he felt that we should have the same federal jurisdiction and federal tenure and be treated like a --

TOVES: At the same level.

CROUTHAMEL: -- same level as the rest of the District Courts in the United States. You know, we really have the jurisdiction of a District Court, but we're not.

TOVES: Treated as equal.

CROUTHAMEL: Right.

TOVES: There was one other question to that line but I can't seem to remember it. Oh, yes. And he mentioned that during Judge Unpingco's investiture ceremony, Judge Duenas did in his speech, and it was also touched upon just recently when the Supreme Court matter was coming up, coming back on. That issue of Article III and Article I judge also came up, but it didn't materialize again. What seems to be the problem here, do you have any inkling?

CROUTHAMEL: Oh, I think that it's just hard for Congress to focus on. If Congress did something for Guam, it would have to do it for the Virgin Islands, the CNMI and --

TOVES: All of the other territories.

CROUTHAMEL: Yeah. And it may not be just with regard to the courts, it may require some complete revision of the relationship between the federal government and the insular territories. The track record in American history is, you're a territory, you're unincorporated, then you become incorporated, then you become a state. And we have these four insular territories that are small in population, with the exception of Puerto Rico. Guam has been part of the U.S. since 1898, the Virgin Islands, since 1917, Commonwealth of the Northern Marianas since the 1970s, and are they ever going to become states, or are they not going to become states,

or what are they, what will be the status? And of course the different jurisdictions have different ideas on what they want to do.

TOVES: So it's a political problem?

CROUTHAMEL: I think it's a political problem of how the federal government relates to all of the insular territories. In some ways it's better to do nothing than to do the wrong thing. Maybe doing nothing is better than doing something. If you do something you might do the same thing for all four territories and that might not be the best thing for each. What may be good for one may not be good for the others. I don't know how to handle it. My feeling is I'm not unhappy with the status that Guam has. I rather like it. When I found out that I could come to Guam and pay my income tax to the government where I live and not to Washington, D.C., I said I like that idea. How can we get much better than that?

TOVES: Okay. Now we talked about the other two judges; how about the last two judges, Judge Unpingco and --

CROUTHAMEL: Because I was retired from practice --

TOVES: Oh, just the last judge, Judge Unpingco.

CROUTHAMEL: Okay. Because I basically took a sabbatical from law practice from 1989 to 2001, and still now practice part-time, I never was very much in front of Judge Unpingco, other than the bankruptcy calendars, and I found out that Judge Unpingco seemed to be pretty adept at handling bankruptcies and moving things along. So I appreciated the exposure I had with Judge Unpingco, which was small, but pleasant.

TOVES: So you don't have any other comments about him, just from your experience. Okay. That concludes the talk about judges.

Let's talk about what you think about our courthouse. Mary had something to do with it.

CROUTHAMEL: She was the construction manager, as I recall. I have never seen a clerk of court that had more knowledge on construction than she seems to have. It's so intimidating. Terribly intimidating.

TOVES: The court building?

CROUTHAMEL: Just to walk into it, go through the doors and get questioned and grilled by the security guards. When I was law clerk it was so open.

TOVES: But we never had security, so security should be good.

CROUTHAMEL: Security may be necessary.

TOVES: It's the change of times too.

CROUTHAMEL: The change of times.

TOVES: Remember. Yes.

CROUTHAMEL: The change of times. I mean, after the things that happened in New York City and other things that happened before that, you need security; you know, the staff of the court, the attorneys coming and going. It's different, but still, I like the old courthouse where you just walked on in and walked into the courtroom, nobody frisked you or asked you who you were, or why you were there. You could always get to the clerk's office and file whatever you wanted to file.

TOVES: But there was no terrorist problem back then.

CROUTHAMEL: That's true.

TOVES: And you should feel safe coming into our courtroom and court building here.

CROUTHAMEL: I think it's a beautiful building with beautiful facilities. And I wish that when I was a law clerk we had all the technical advantages that this courtroom has.

TOVES: Do you know how much that courtroom cost, itself, just the courtroom?

CROUTHAMEL: No. How much? I'd like to know. What do you think?

TOVES: You'll have to ask Mary.

CROUTHAMEL: (Chuckling.) She probably has the breakdown on it.

TOVES: Right. She knows it all, I'm sure, and we'll get it out of her when we interview her.

CROUTHAMEL: I have to say, I like this side of the building because of the fourth floor view and everything, because we didn't have a view from the --

TOVES: You see the Agana swamp from your side.

CROUTHAMEL: Exactly.

TOVES: But then you'd have to get up from your desk and walk --

CROUTHAMEL: In the law clerk's office back in the old court, the window was a small window that was probably six-and-a-half feet above the floor, so it was a window for light. The hardest thing I had to work on in that building was I had to coordinate the air

conditioning repairs to the building. The whole air conditioning system would break down periodically and there was no ventilation.

TOVES: For the whole courthouse?

CROUTHAMEL: For the whole courthouse. Yeah. And it would get hotter than hell in there for weeks at a time. We had no backup generator during my time I don't think we had a backup generator.

MILES: Was there a JWS?

CROUTHAMEL: I started getting JWS involved, I think, in that air conditioning system. And I don't know if they're still maintaining some of the stuff or not.

TOVES: That's right, that's another development, JWS came on island.

CROUTHAMEL: Yes (chuckling). We had better contractors.

TOVES: Do you have anything else you want to add about our building. I'm so proud of this building, it's so nice.

CROUTHAMEL: Do you have any openings in the clerk's office.

TOVES: Do you want to come back?

CROUTHAMEL: I saw the athletic club and athletic rooms, the gym, and it makes me want to come back in some capacity.

TOVES: That's our well kept secret.

CROUTHAMEL: It is.

TOVES: We did talk about the court in the PDN building, didn't we? That's where you worked?

CROUTHAMEL: No. No, I didn't. I was already off the staff when the federal court moved to the PDN building.

TOVES: Where was the courthouse when you were with the court?

CROUTHAMEL: Where the public defender's office is, right there on the corner of Route 4 and O'Brien Drive..

TOVES: That's right.

CROUTHAMEL: The two-story building that was built about 1968. It was built for all the courts on Guam.

TOVES: That's where you worked?

CROUTHAMEL: Yes. The judges downstairs were Joaquin Perez, Richard Benson and Paul Abbate.

TOVES: But you never worked over at PDN?

CROUTHAMEL: Never.

TOVES: Our courtroom here I think is kind of like that, patterned after that.

CROUTHAMEL: The PDN Building had a nice courtroom.

TOVES: I think all the courtrooms kind of look alike, the one in the PDN building and ours, they're all similar. Only ours is bigger here now.

CROUTHAMEL: It's bigger.

TOVES: The setup it just seems similar.

CROUTHAMEL: It was a nice courtroom in the PDN building, and you had a lot more room than the old building, but this is over the top. (Chuckling.)

TOVES: Wanda says the acoustics aren't very good.

CROUTHAMEL: That's real important for a court reporter.

TOVES: Yes, it is.

One final thing. Do you have any personal collections or photos that you might have taken back then?

CROUTHAMEL: I don't think I really do. I'm trying to think of any pictures that I have of Judge Duenas, or the staff. I really don't think I've got anything.

TOVES: Not one?

CROUTHAMEL: I'll look.

TOVES: Can you? We'd like to include it with your transcript if we can.

CROUTHAMEL: Okay.

TOVES: Anything.

CROUTHAMEL: I'll go through some of my slides because I have a whole bunch of slides from the 1970s, and maybe I've got something.

TOVES: If you have anything with Judge Duenas, boy, that would be nice to add to this.

CROUTHAMEL: Yeah, with a big cigar in his mouth and a scotch -- I don't think I got that. (Chuckling.)

TOVES: What do you think of our next nominee for the District Court of Guam?

CROUTHAMEL: I think -- on the record?

TOVES: I wish they'd offer that to you.

CROUTHAMEL: On the record I think it's a fabulous appointment. Off the record, I think it's a fabulous appointment.

TOVES: We're excited, we can't wait for a judge to come and take this place.

CROUTHAMEL: Sometimes fortuitous things happen, and I think that it was a fortuitous thing in 1969 for Judge Duenas to get the appointment as a District Court judge, because it was a very formative time in Guam's history; first time for it to have an elected governor, a time when there was substantial economic development in the territory, and it was very important to have an honest, intelligent, capable federal judge and Guam got that, you know, for two decades.

TOVES: And then now we have a first woman.

CROUTHAMEL: Woman.

TOVES: In District Court.

CROUTHAMEL: This court has had, certainly since Judge Duenas's appointment, has had a history of decent appointments.

TOVES: Good. We hope it continues that way for the good of the District Court.

CROUTHAMEL: Good of the territory.

TOVES: Good of the territory, people of Guam, and everything.

Okay, Mr. Crouthamel, thank you very much for your time.

CROUTHAMEL: Thank you.

TOVES: You have given us a lot of information.

CROUTHAMEL: It was fun.

TOVES: It was fun. We'll give you time to see review the transcript.

CROUTHAMEL: Wanda gets everything right.

(Chuckling all around.)

TOVES: Is there something you want -- is there a restriction on your transcript that you want put on record?

CROUTHAMEL: I don't think so.

TOVES: You didn't expose anything.

CROUTHAMEL: I was fairly careful.

TOVES: Okay, that's it. Thank you very much again.

(Off the record.)

(After a short discussion, back on the record.)

TOVES: Okay, one more question. Let's talk about the Bankruptcy Court of the District Court, Bankruptcy Court of the District Court of Guam during your time in the 1970s.

CROUTHAMEL: Well, when I started there were very few bankruptcies, there might be three, four or five bankruptcies filed in a year, and they generally consisted of military individuals who had some consumer debt and got to Guam and decided to declare bankruptcy and get a discharge. But when we had the oil crisis in 1974 and the oil embargo and all the Japanese investment stopped, Guam went into a real economic tailspin and we actually had our first Chapter 11 filed I think in 1975, which was the Sav-More Supermarket bankruptcy, which was a three-store chain, and it must have had two or three million dollars of debt. We had never had such a bankruptcy. Judge Duenas had never had to do much bankruptcy because they were so small and, here, we had a major Chapter 11 reorganization, and had limited experience in doing anything in this area. So I got on the telephone and called a bankruptcy referee in San Bernardino that I knew of, because he had done a supermarket bankruptcy back in the early 70's. In those days they called the bankruptcy judges "referees," not bankruptcy judges. He suggested that I contact a bankruptcy law firm in Los Angeles, and I did, and by gosh, they came out to Guam right away, and they hired Lee Palmer or got Lee Palmer appointed the trustee of this case and became the lawyer for the trustee. We started getting bankruptcy referees from Oregon to come out and rotate every once in a while to handle this case as well as other Chapter 11's that got filed. We had major ones like Air Pacific, a local airline that went into Chapter 11, we had Socio Construction Company, which was a very large Korean-owned construction company that went into Chapter 11 in the 70's, cases that Guam had never seen before. But it was a nice experience for me to work with some of those bankruptcy referees and judges from Oregon. I remember there was Don Sullivan, Ed Lucky -- can you imagine a bankruptcy judge named "Lucky"? And Henry Hess. It was a different exposure for both Judge Duenas and I. I think I

got more involved in it because I was the law clerk. They were here to relieve Judge Duenas, but they weren't here to relieve me, they were here to give me work. (Chuckling). It made life easier on me as the law clerk to have experienced bankruptcy judges that were handling this as opposed to Judge Duenas handling it and me trying to help him. It was certainly a new event, because in the 50's and 60's and the first five years of the 70's, there had never been such a thing as a Chapter 11 filed on Guam. And now we have Chapter 11's filed with some regularity, and probably two- or 300 bankruptcy cases filed a year. So it's changed a lot in that regard. I like reorganizations. I think they're fun to look at, but they don't always end up being successful.

TOVES: And one more question. You touched upon your occupation as a law clerk and why some of the local people aren't returning to Guam to work because they weren't coming back to work here straight from college.

CROUTHAMEL: Well, back in the 70's there just weren't that many that were in law school. It was a generation and a half ago, and you might have had one local student in law school every other year in those days. Now you've got five or six or seven students from Guam that are in law school at any one time. Some may return to Guam, and some of them stay in the states. And some of them return to Guam and work like Brandon Carbullido who came back to Guam and worked a year and a half and now he's working in San Francisco. So you've got plenty of talent.

TOVES: What was the bar like back then?

CROUTHAMEL: There were about 55 lawyers in private practice in 1973, and you had seven lawyers in the Attorney General's Office. And the Attorney General was a man named Keith Andrews who was a very nice man. He was probably in his fifties and most of the people that worked with him were in their sixties. And there was one guy that was a prosecutor, his name was John Fuchs, who was a good prosecutor, F-U-C-H-S, from California, who was a real good, solid prosecutor, and he was about 46 years old; and I said, what are you doing here, you're way too young for this department. Because the average age was 62 in the AG's office. They had seven lawyers in the Attorney General's Office in 1973, and they were trying all the felonies, representing all the agencies of the Government of Guam. All these government agencies didn't have different private counsel then. Fred Bordallo was the lawyer for GPA and

that was about the only agency that had a lawyer. So the Attorney General's Office was handling everything.

TOVES: And you also had the public defender, Federal Public Defender?

CROUTHAMEL: You didn't have a Federal Public Defender then, and you didn't have a federal probation office then.

TOVES: When did the probation office come into being here?

CROUTHAMEL: It probably would have been about 1977 or 1978 -- maybe '77. And to tell you the truth, I was upset that there was no U. S. Probation Office. I didn't feel that the territorial probation office was doing a good service to the District Court. I didn't feel that it was adequate. I didn't feel that the Administrative Office of the U. S. Courts should treat Guam differently than it treated Chicago or Atlanta, Georgia. I remember that there was a conference in San Francisco that the judge and I had to go to. There was a special panel created by federal law that each court had to have a committee to make sure that the Speedy Trial Act was followed. We combined forces with Hawaii and created a panel that was to work on compliance of the Speedy Trial Act.

As a requisite of that, we had to go to San Francisco for a federal conference on the Speedy Trial Act. I asked the judge if I could get permission from the Administrative Office to write my ticket on to Washington D. C. And he said, "Well, if you can get them to do that, that's fine." So I did, and I went to the Administrative Offices of the U. S. Courts in Washington D. C., and I'm 27 years old and I'm the law clerk, and I go see Chief Executive Joseph Spaniel, I believe, S-P-A-N-I-E-L. I can't remember the name of the chief of the probation office in AO. But my goal was to go and meet with the chief probation administrator of the Administrative Office of the U.S. Courts and sit down and say, "We don't have a probation office, and that's wrong." I walked in and there was a gold-carpeted office, which means something in Washington D. C., if you're this level. If you're a GS-14, you've got a blue carpet; if you're a GS-15, you got a gold carpet, or whatever it is. The chief probation administrator said, that's right, we don't have a probation office; do you think we should have one? And I said, "Yes, I do, and so does Judge Duenas. Okay? But he didn't have the time to come here, and I did." And the ball started going very quickly. But it was because, and maybe I'm being overly –

TOVES: Because you pushed it?

CROUTHAMEL: I pushed it with Judge Duenas's support, and I didn't get a brick wall. I got decent people to talk to me and receive me. One of the lawyers at AO was a guy named Duane Lee, wasn't it?
wasn't it.

MILES: Rex Lee.

CROUTHAMEL: Rex Lee, you know because his father had been the governor of Samoa, and he married Jay Lather's sister, correct?

MILES: Yes. And Jay Lather's mother was one of my teachers.

CROUTHAMEL: Fran.

TOVES: What a small world!

CROUTHAMEL: And it was in 1975, I go into the AO office and talk Duane Lee.

MILES: Rex Lee. His father was Rex Lee.

CROUTHAMEL: He said, oh, you know, I grew up in Samoa, and my mother is living in Guam, and so he was so happy to see someone from the District Court of Guam, and we got the dialog going. It just moved from there to get the probation office going. The attitude when I got to Guam in 1973 was, you don't make a phone call to the Administrative Office of the U. S. Courts, you write a letter and ask permission to make a phone call, because the cost was so excessive.

TOVES: That's the way it was back then?

CROUTHAMEL: That's the way it was. It was even how Judge Duenas thought. You don't spend money, you don't have the budget. And my attitude was, it doesn't matter, this is the federal government, and you've got to pay the same -- you've got to give all the functions to this court in Guam that you give to any other Federal Court in the United States. And you can't say, well, because the miles are this far we aren't going to provide that service or clue you in on this, or communicate with you the same way. You push the point and you get the same treatment. And I think that Mary carries that on. I mean, I don't think the judge ever pushed it, he let the staff push it. But it was something that I think I probably started.

TOVES: And why was it necessary to have a probation office established? Is it to give the judge the information that he needs?

CROUTHAMEL: I think the quality of reports became a lot better once we had a probation office.

TOVES: Who was doing the reports again?

CROUTHAMEL: The reports were being done by the territorial probation office. This was many, many years ago, so I mean, I can't be critical of what the territorial probation officer may be doing today. We were being serviced -- The Federal Court was being serviced by the territorial probation department, and the reports didn't appear to be very high quality or timely. The judge seemed to find the quality of the reports as did I. And I said, well, we shouldn't have to depend upon the territory of Guam to provide us with probation services.

TOVES: Two different levels of court, right?

CROUTHAMEL: Right. Exactly. And, you know, the federal system should pick up the cost of whatever -- of this District Court of Guam, and that's kind of how we did it.

TOVES: Earlier you touched on the court reporters of Guam, can you name some?

CROUTHAMEL: Well, the first one was John Barnes, I believe, who arrived here in the early 1950s, and was here for maybe 20 years or so, but he left in '73 just before I arrived. In fact, I met him when I interviewed. He seemed to be a man who was a little tired of Guam, or tired, I don't know. After I arrived, Edward Seymour, who was originally from California but had worked in the federal court system in Boise, Idaho for many years, took a transfer here, and came on a two-year contract and then he re-upped for two more years, and he very much liked working with Judge Duenas. And he left in 1977, I believe, or 1978, and he was retirement age at that point, and so he retired from the Administrative Office of the U. S. Courts.

There was a court reporter in the Superior Court, Jane Wassel, who applied for that position and took that job, and then Jane left Guam, and of course Wanda Miles was on Guam and took that job. So I've known all the court reporters.

TOVES: And she's been here for a long time, hasn't she?

CROUTHAMEL: Well, not as long as -- doesn't seem long to me. I've been here 33 years.

MILES: Long enough, 25.

TOVES: And they've all used the machine-type method.

CROUTHAMEL: All have been stenotypists.

TOVES: Can you comment on the clerks of court of Guam, do you know them as far as back as the court's existence?

CROUTHAMEL: Edward L. G. Aguon was the first one that I knew, and he --

TOVES: There was one before him.

CROUTHAMEL: There had to be one before him, but I don't know who it was.

TOVES: Name was Ron Gillette or something.

CROUTHAMEL: That name sounds familiar. I don't know where he came from or --

TOVES: I don't either. I was just trying to get the information. And then Eddie Aguon.

CROUTHAMEL: Eddie Aguon, and I think that Mary Moran took Eddie Aguon's place.

So there haven't been a tremendous number of --

TOVES: Mary also holds the record, right, of the longest --

CROUTHAMEL: Well, gosh, Eddie was there for more than 20 years, and I don't think Mary's been the clerk quite 20 years.

TOVES: '86 or '87.

CROUTHAMEL: Yeah, that's about right. So she's almost 20 years.

TOVES: She's been with the --

CROUTHAMEL: -- court since '81.

Do you know how Mary got to Guam or what happened?

TOVES: No. Can you go into it?

CROUTHAMEL: Yeah, I'll go into it.

TOVES: Give us that info.

CROUTHAMEL: Mary was finishing law school at Suffolk University in Massachusetts, and she flew out to Guam to visit a boyfriend who was an Air Force dentist, and he was at Andersen Air Force Base. And she was about finishing law school, and she had met Don Williams at the Carlsmith firm and told him she may be looking on Guam for her first job out of law school. He said, well, I don't know if we'll have an opening, but if you're coming back in two or three months, why don't you give us a call and see what's happening. So, Don was off island, and three months later Mary had returned to Guam and she was up at Andersen Air Force base, and telephones didn't work real well in those days, and she had gotten a phone call through to the Carlsmith office; and she said, "Uh, my name is Mary Peters and I'm from

Suffolk University Law School in Massachusetts. I've met Don Williams and he told me to call him when I got back here, and I'm interested in a legal position and I don't have any more quarters. I've been calling everybody for the last two days, and I'm out of quarters, this is the last quarter I have, and if you didn't answer the telephone I wasn't going to be able to make another call to look for a job." I said, "Look, I don't know who the hell you are, I've never heard of you, Don Williams didn't say anything to me about you. But I'll take your name down, I'll call Don in the states, so give me a number at Andersen where I can reach you at, and I'll get back to you." So I called Don, and he said, "Oh, yeah, I remember that gal, I did tell her to look us up when she came back to Guam and when she decided to look for a job. Yeah, I liked her, I thought she was bright, I mean, go ahead and interview her, talk to her, see if you can get together with her."

And so, I called her back the next day and said, "Well, Don says that I should talk to you, so why don't you come on in." I sat down with her and I said, "You know, the law firm wants me to go to Hawaii for four months and take the Hawaii bar and get out of here, and they need me to be admitted in Hawaii, and so I'm not going to be here and someone needs to take my place, so we do have a job, why don't you take my place?" That was great for her. And so she took my place.

MILES: How many people were in your firm at that time?

CROUTHAMEL: It was Don Williams, Jaz Phillips and myself. Mary took my place. It was a temporary thing, but when I came back, we decided that there was enough work for four lawyers. So we said, look, you can stay on in private practice with us, we've got a workload for you. And Mary said, "Yeah, okay, I will for a while, but, you know, I think I want to move back to the mainland eventually, and there's an opening over at the courthouse for a federal law clerk and I'm going to apply for that job and that way I can move back to the mainland easier after I get that experience under my belt." So, she left us and took a job as Judge Duenas's law clerk. And I guess she's still trying to figure out a way to move back to the states, because it hasn't happened yet.

TOVES: She can't do it.

CROUTHAMEL: No. Huh-uh.

TOVES: She's got a lot of unfinished business.

CROUTHAMEL: But I've been a little bit peeved that she left our firm for a long time ago. Okay. But we always say that the reason Mary is on Guam is because she had one last quarter and I was there to answer the telephone. (Chuckling.) Otherwise she probably wouldn't have hung around.

MILES: Lucky for us she did.

TOVES: Right.

Thank you, again.

MR. CROUTHAMEL: All right.

(Interview concluded. at 12:15 p.m. May 2, 2006)